

REMARKS

By this Amendment, claim 1 is amended to merely clarify the recited subject matter. Claims 1-14 are pending.

Although the Office Action indicated that claim 5 includes allowable subject matter, Applicant delays rewriting that claim in independent format at this time to fully afford the Office the opportunity to reconsider the patentability of the remaining claims based on the following arguments.

The Office Action rejected claims 1-4 and 6-10 under 35 U.S.C. 103(a) as being obvious from Boltz (U.S. 6,131,024) in view of Hentila et al. (U.S. 6,044,259; hereafter “Hentila”), and rejected claims 10-14 under 35 U.S.C. 103(a) as being obvious over from Boltz, Hentila and Laybourn et al. (U.S. 6,480,710; hereafter “Laybourn”).

Applicant notes, the Office Action appears to include a typographical error regarding claim 10; specifically, it is unclear whether the Office Action meant to reject claim 10 twice.

Nevertheless, Applicant traverses the prior art rejections because the Office Action has not established a *prima facie* case of obviousness because: (1) no combination of the cited prior art references teaches or suggests all the features recited in the rejected claims; and (2) the stated motivation to combine the teachings of the cited references is deficient.

Combined Teachings Do Not Provide Claimed Invention Features

To establish a *prima facie* case of obviousness, three basic criteria must be met, the last of which being that the prior art references, when combined, must teach or suggest all the claim limitations. However, the combined teachings of the cited prior art fail to disclose, teach or suggest the claimed method or arrangement that detect a termination of the call, and in response to that detection, send credit/charging information maintained information related to the subscriber of the mobile station in a network node to a mobile station as a connectionless message.

The Office Action asserted that Boltz disclosed sending credit/charging information to the mobile station as a connectionless message at column 5, lines 27 – 36. However, the Office Action’s assertion is incorrect. In fact, that passage of Boltz (excerpted below) reads as follows:

“Additionally, ... a mobile subscriber will be able to request from the system the current accumulated usage and the defined usage limits. Using a USSD or other MMI message, as discussed above, sent from the Mobile Station 300

transparently to the MSC 330, the current usage amount and defined usage limit can be retrieved from the VLR 340 and returned to the MS 300 where the information can be displayed or indicated via system message to the user.”
(emphasis added)

Thus, Boltz actually teaches that a mobile subscriber must request the credit/charging information. Thus the teachings of Boltz are more relevant to the prior art acknowledged in Applicant’s own background section, with the exception that, in Boltz, the subscriber does not call an IVR unit but requests the credit/charging information via a USSD or MMI message.

As a result, Boltz fails to disclose, teach or suggest sending credit/charging information to the mobile station as a connectionless message; rather, in Boltz, the mobile subscriber may request such information by means of a connectionless message. Such a set up is contrary to the claimed invention, which eliminates the requirement that a subscriber request the credit/charging information. Boltz clearly fails to disclose, teach or suggest sending credit/charging information in response to the detection of a call termination.

Hentila fails to remedy this deficiency of Boltz because Hentila merely teaches a wireless telephone system with an intelligent node to control and track call usage defined by a subscriber.

Laybourn fails to remedy the combined teachings of Boltz and Hentila because Laybourn merely teaches specific details regarding Short Message Service Center operation.

Accordingly, the combined teachings of the cited prior art references fail to provide all the features recited in the rejected claims, including the sending of credit/charging information in response to a detection of a call termination. Therefore, a *prima facie* case of obviousness has not been met for either prior art rejection. Thus, claims 1-14 are patentable.

Rejection’s Motivation to Combine the Cited Prior Art References is Deficient

To establish a *prima facie* case of obviousness, three basic criteria must be met, the first of which being that there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. However, the Office Actions asserted motivation for combining the teachings of Boltz and Hentila is lacking because it is nothing more than a recitation of a hypothetical result inferred by the Office based on hindsight reasoning resulting from the Office’s review of Applicant’s specification.

The Office Action asserted that one of ordinary skill in the art would have been motivated to combine the teachings of Boltz and Hentila because "it would have been obvious to one of ordinary skill in the art at the time of the invention to recognize in the system of Boltz the call control of Hentila such that the system indicates call charge status whenever directed by automatic or manual means by the subscriber".

That statement of motivation is nothing more than a speculative conclusion of one potential result (based on erroneous analysis of Boltz, explained above) based on hindsight analysis.

Hentila relates to a technique in which the subscriber is only charged after a call ("It is not possible to include a parameter that would prohibit over-expensive calls in the subscriber databases, since the subscriber is never charged until afterwards, after the call", column 2, lines 6 - 9). Although Hentila may disclose an after-call-only limitation in the problem description of his patent, Hentila provides no solution to that problem. Accordingly, one of ordinary skill in the art would not have looked to or found the missing features from Boltz in the teachings of Hentila to produce the claimed invention, which is equally applicable to pre-paid and post-paid charging.

Moreover, the motivation for combining Boltz and Hentila fails to include any explanation of why one of ordinary skill in the art would have combined the teachings. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

Thus, the motivation to combine Boltz and Hentila in both prior art rejections is deficient. Therefore, a *prima facie* case of obviousness has not been met for either prior art rejection. Thus, claims 1-14 are patentable.

All prior art rejections having been traversed, Applicant submits that the application is in condition for immediate allowance and requests that a Notice be issued to that effect. If anything remains necessary to place the application in condition for allowance, Applicant requests that the Examiner contact Applicant's undersigned representative.

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Respectfully submitted,

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